(31)

Office – Supreme Court, U. S.
NOV 13 1944
CHARLES ELMORE CROPLEY
CLERK

In the Supreme Court
OF THE
United States

OCTOBER TERM, 1944

No. 412

J. R. MASON, *Petitioner,*

vs.

GLENN-COLUSA IRRIGATION DISTRICT, *Respondent.*

PETITION FOR REHEARING.

W. COBURN COOK,
Berg Building, Turlock, California,
Counsel for Petitioner.

PERNAU-WALSH PRINTING CO., SAN FRANCISCO, CALIFORNIA

In the Supreme Court
OF THE
United States

OCTOBER TERM, 1944

No. 412

J. R. MASON,
Petitioner,

vs.

GLENN-COLUSA IRRIGATION DISTRICT,
Respondent.

PETITION FOR REHEARING.

To the Honorable Harlan Fiske Stone, Chief Justice of the United States, and to the Honorable Associate Justices of the Supreme Court of the United States:

The petitioner, J. R. Mason, respectfully submits this petition for rehearing in this cause.

There is pending in this Court a petition for a Writ of Certiorari in the case of *H. M. Lorber, et al., Petitioners, v. Vista Irrigation District, Respondent,*

No. 624, October Term, 1944, which petition, however, is not at the moment in time for submission to this Court but it embraces at least one of the same questions as the instant petition, and presents additionally other questions which the petitioners confidently expect will cause this Court to grant a petition for a Writ of Certiorari. Should such a petition be granted in the *Lorber* case, it seems to the petitioner herein that a petition for rehearing should be granted herein and for that reason, if for no other, this petition for rehearing is filed.

There is, of course, an important difference in the two cases in that the instant appeal is from the final decree, while the Lorber petition is from an interlocutory decree. Nevertheless, the cases involve complete refinancing and liquidation of the debt of the public corporation prior to the entry of the final decree and before the interlocutory decree had become in anywise binding upon the bankrupt.

To paraphrase the language of the Honorable A. F. St. Sure, the district judge whose decision was reversed by the Circuit Court,—if it is equitable for a debtor to raise, and it is able to raise $802,500.00 to pay its creditors, and the plan as finally executed furnished to the debtors an amount greatly less, it would appear that there has been a deviation from, and a substantial modification of the plan approved by the interlocutory decree.

It would appear also that the creditors are entitled to the saving which the district was able to effect by

the issuance of 3¼ per cent refunding bonds instead of 4 per cent bonds as represented in the proposed plan.

It is submitted that it is an elemental proposition that where the bankrupt still under the jurisdiction of the Court liquidates the debt which he proposes to compose, the proceedings should be dismissed.

It is respectfully submitted that the matter of the issuance of a Writ of Certiorari be reconsidered and the petition therefor granted.

Dated, Turlock, California,
November 8, 1944.

J. R. MASON,
Petitioner.

W. COBURN COOK,
Counsel for Petitioner.

CERTIFICATE OF COUNSEL.

I, W. Coburn Cook, counsel for the above-named petitioner, do hereby certify that the foregoing petition for rehearing of this cause is presented in good faith and not for delay.

Dated, Turlock, California,
November 8, 1944.

W. COBURN COOK,
Counsel for Petitioner.